

*McClay•Alton, P.L.L.P.  
Robert M. McClay #69620  
(Pro Hac Vice)  
951 Grand Avenue  
St. Paul, Minnesota 55101  
Telephone: 651-290-0301  
Fax: 651-290-2502  
Email: [law@mcclay-alton.com](mailto:law@mcclay-alton.com)*

*Marvin C. Ingber #0048859  
(Pro Hac Vice)  
Attorney and Counselor at Law  
6705 Apache Road  
Edina, Minnesota 55439-1001  
Telephone: 612-327-8378  
Email: [mcingber@comcast.net](mailto:mcingber@comcast.net)*

*Attorneys for Defendants:  
JAMES B. PINTO REVOCABLE TRUST U/A  
DTD 12/1/03; and JAMES B. PINTO, individually  
and in his capacity as Grantor and Trustee for the  
James B. Pinto Revocable Trust*

**IN THE UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION CORPORATION,  Plaintiff-Appellant,  v.  BERNARD L. MADOFF INVESTMENT SECURITIES LLC,  Defendant.	Adv. Pro. No.08-01789 (SMB)
In Re:  BERNARD L MADOFF,  Debtor.	SIPA LIQUIDATION  (Substantially Consolidated)
IRVING H. PICARD, Trustee for the Liquidation of Bernard L. Madoff Investment Securities LLC,  Plaintiff,	Adv. Pro. No. 10-04538 (SMB)

v.

JAMES B. PINTO REVOCABLE TRUST U/A  
DTD 12/1/03; and JAMES B. PINTO, individually  
and in his capacity as Grantor and Trustee for the  
James B. Pinto Revocable Trust,

Defendants.

**DECLARATION OF MARVIN C. INGBER IN SUPPORT OF DEFENDANTS' MOTION  
FOR AN ORDER PURSUANT TO RULE 2090-1(e) OF THE LOCAL BANKRUPTCY  
RULES TO REMOVE BRUCE S. SCHAEFFER AS COUNSEL TO DEFENDANTS**

I, Marvin C. Ingber declare as follows:

1. I am admitted Pro Hac Vice to this court. Pursuant to Rule 2090-1(e) of the Local Rules of the United States Bankruptcy Court for the Southern District of New York, I submit this declaration in support of the accompanying motion, notice of presentment and proposed order to remove Bruce S. Schaeffer ("Mr. Schaeffer") as counsel for defendants James B. Pinto Revocable Trust and James B. Pinto ("Defendants") in this adversary proceeding.

2. On June 26, 2009, Mr. Schaeffer submitted a representation letter to the Trustee regarding the above captioned adversary case.

3. On March 27, 2012, Mr. Schaeffer filed a Request to Withdraw as Attorney of Record (docket number 11 on the above captioned adversary case); however, an Order granting this Request is not on the docket.

4. On March 28, 2012 an Order was signed granting Robert M. McClay's Pro Hac Vice admission.

5. On March 30, 2012 an Order was signed granting the undersigned's Pro Hac Vice admission.

6. All ongoing representation matters are being handled by Robert M. McClay and the undersigned.

7. Defendants have authorized this action to formally remove Mr. Schaeffer as attorney of record in this matter and to have him removed from all service lists.

8. On January 19, 2015 Robert M. McClay's legal assistant sent a letter to Mr. Schaeffer enclosing a stipulation Notice of Substitution of Counsel and Proposed Order for his signature. Mr. Schaeffer's two faxed responses to that letter and his reasons for not signing the stipulation are attached as Exhibit A & Exhibit B.<sup>1</sup> The undersigned did not respond to Mr. Schaeffer's letters either in writing or verbally. The undersigned respectfully disputes his comments.

9. The undersigned has not had any direct communication with Mr. Schaeffer after the transfer of the case to Robert M. McClay and the undersigned. During the transfer of the case the undersigned maintained any communications with Mr. Schaeffer in a professional manner. To the undersigned's knowledge, Defendants have had no contact with Mr. Schaeffer since the transfer of the case to Robert M. McClay and Marvin C. Ingber.

10. As the foregoing states, the undersigned has been unable to obtain Mr. Schaeffer's cooperation to remove himself as counsel.

11. It is not expected that any delay or prejudice will result to any party in this proceeding from this substitution of counsel.

Pursuant to 28 U.S.C. § 1746, the undersigned declares under penalty of perjury that the foregoing is true and correct.

---

<sup>1</sup> Mr. Schaeffer provided the two letters via email to Judge Bernstein's Chambers on February 3, 2015.

Dated: Palm Springs, California

April 22, 2015

By: /s/ Marvin C. Ingber  
Marvin C. Ingber

**BRUCE S. SCHAEFFER**

ATTORNEY AT LAW  
3 PARK AVENUE  
15<sup>TH</sup> FLOOR  
NEW YORK, NEW YORK 10016

TEL (212) 689-0400  
FAX (212) 696-9569

Date: January 21, 2015

To: Jennifer Fink

Fax: 651.290.2502

From: Susan Ogulnick

Re: Your letter of January 19, 2015

Number of pages to follow: 1

---

**CONFIDENTIAL COMMUNICATION**

The attached material is intended for use only by the addressee set out above. It should not be read by, or distributed to, any other person. Such material may contain privileged or confidential information, the disclosure or other use of which by other than the intended recipient may result in the breach of certain laws or the infringement of the rights of third parties. If you have received this telecopy in error, please notify us immediately by calling our office (collect if necessary) at (212) 689-0400 so that we can make appropriate arrangements for the return of this telecopy at our expense. We thank you in advance for your cooperation and assistance.

**BRUCE S. SCHAEFFER**

ATTORNEY AT LAW

3 PARK AVENUE, SUITE 1501

NEW YORK, NEW YORK 10016

TEL (212) 688-0400

FAX (212) 688-9569

Bruce.Schaeffer@gmail.com

January 21, 2015

VIA FACSIMILE

Jennifer Fink

Legal Assistant to Robert M. McClay

McClay Alton, PLLP

951 Grand Avenue

St. Paul, MN 55105

Dear Ms. Fink:

Mr. Schaeffer will need a better and fuller explanation as to why he should cooperate with Mr. Ingber and his clients who have threatened and libeled him. Please provide immediately.

Yours truly,



Susan Ogulnick  
Office Manager

**BRUCE S. SCHAEFFER**

ATTORNEY AT LAW  
3 PARK AVENUE  
15<sup>TH</sup> FLOOR  
NEW YORK, NEW YORK 10016

TEL (212) 689-0400  
FAX (212) 696-9569

Date: January 28, 2015

To: Jennifer Fink

Fax: 651.290.2502

From: Susan Ogulnick

Re: Your letter of January 19, 2015

Number of pages to follow: 1

---

**CONFIDENTIAL COMMUNICATION**

The attached material is intended for use only by the addressee set out above. It should not be read by, or distributed to, any other person. Such material may contain privileged or confidential information, the disclosure or other use of which by other than the intended recipient may result in the breach of certain laws or the infringement of the rights of third parties. If you have received this telecopy in error, please notify us immediately by calling our office (collect if necessary) at (212) 689-0400 so that we can make appropriate arrangements for the return of this telecopy at our expense. We thank you in advance for your cooperation and assistance.

**BRUCE S. SCHAEFFER**

ATTORNEY AT LAW

3 PARK AVENUE, SUITE 1501

NEW YORK, NEW YORK 10016

TEL (212) 689-0400

FAX (212) 696-0500

Bruce.Schaeffer@gmail.com

**SECOND NOTICE**

January 28, 2015

**VIA FACSIMILE**

Jennifer Fink

Legal Assistant to Robert M. McClay

McClay Alton, PLLP

951 Grand Avenue

St. Paul, MN 55105

Dear Ms. Fink:

We responded immediately to your request for action by January 30 by demanding a fuller explanation. You have failed to respond. Accordingly, we have no choice but to ignore your demands and Mr. Ingber's prior threats.

Yours truly,



Susan Ogulnick

Office Manager